

HARFORD COUNTY BILL NO. 12-41

Brief Title Agricultural Preservation – Lowe Trusts – 156 Acres

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Pamela Meister
Council Administrator

Date November 20, 2012

ENROLLED

Billy Bonifera
Council President

Date November 20, 2012

BY THE COUNCIL

Read the third time.

Passed: LSD 12-31

Failed of Passage: _____

By Order

Pamela Meister
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 21st day of November, 2012 at 3:00 p.m.

Pamela Meister
Council Administrator



BY THE EXECUTIVE

David R. Craig
COUNTY EXECUTIVE

APPROVED: Date November 27, 2012

BY THE COUNCIL

This Bill No. 12-41 having been approved by the Executive and returned to the Council, becomes law on November 27, 2012.

EFFECTIVE DATE: January 28, 2013

Pamela Meister
Council Administrator

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND
BILL NO. 12-41

Introduced by Council President Boniface at the request of the County Executive

Legislative Session Day No. 12-28

Date: October 9, 2012


A BILL approving and providing for a multi-year Installment Purchase Agreement by Harford County, Maryland (the "County") to acquire development rights in up to 156 acres of agricultural land located at Fawn Grove Road, Pylesville, Maryland 21132, containing fourteen development rights, from BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BENJAMIN ROY LOWE REVOCABLE TRUST DATED 5/24/2012 AND BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BARBARA WRIGHT LOWE REVOCABLE TRUST DATED 5/24/2012, or any other owner thereof for a maximum purchase price of the lesser of \$766,746.24 or \$4,915.04 per acre or portion thereof but equal to the lesser of the maximum easement per acre value or the maximum development right value but not in excess of the maximum per acre cap as determined pursuant to Bill No. 07-05 enacted by the County Council of Harford County, Maryland on April 10, 2007, approved by the County Executive of the County on April 11, 2007 and effective on June 10, 2007, as amended by Bill No. 11-07, enacted by the County Council of Harford County, Maryland on April 5, 2011, approved by the County Executive on April 12, 2011, and effective on June 13, 2011 (the "Agricultural Land Preservation Act"); providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to make modifications in such Agreement under certain circumstances; providing for and determining various matters in connection therewith.

By the Council, October 9, 2012

Introduced, read first time, ordered posted and public hearing scheduled

on: November 13, 2012

at: 6:30 p.m.

By Order: , Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on November 13, 2012, and concluded on November 13, 2012.

, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

RECITALS

In accordance with the provisions of Section 524 of the Charter of Harford County (the "Charter"), the Annual Budget and Appropriation Ordinance of Harford County, Maryland (the "County") for fiscal year 2013, Bill No. 12-24, As Amended (the "Budget Ordinance") includes a project permitting the County to enter into installment purchase agreements to acquire development rights in agricultural lands located within the County, which Budget Ordinance was adopted by the County Council of Harford County, Maryland (the "County Council"), in accordance with the Charter.

Section 520 of the Charter provides that "any contract, lease or other obligation in excess of three thousand dollars (\$3,000) requiring the payment of funds from the appropriations of a later fiscal year shall be authorized by legislative act", and Section 524 of the Charter provides that the County may incur debt and pursuant to the Agricultural Land Preservation Act, the County has been authorized and empowered to enter into installment purchase agreements to purchase easements for agricultural land preservation purposes.

The Agricultural Land Preservation Act provides that after review by the Harford County Agricultural Advisory Board in accordance with the County's Easement Priority Ranking System and approval by the Harford County Board of Estimates, the County Council, may approve and provide for the acquisition of the development rights in each particular parcel of agricultural land, as defined in the Authorizing Act.

Attached to this Bill as Exhibit A is an application to sell a development rights easement signed by the landowner where agricultural land is the subject of this Bill.

Attached to this Bill as Exhibit B are records of The Harford County Agricultural Advisory Board evaluating all applications to offer development right easements to the County, with each application ranked pursuant to the County's easement priority ranking system.

1 The County has now determined to enter into an Installment Purchase Agreement with
2 BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE
3 BENJAMIN ROY LOWE REVOCABLE TRUST DATED 5/24/2012 AND BENJAMIN ROY
4 LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BARBARA WRIGHT
5 LOWE REVOCABLE TRUST DATED 5/24/2012, or any other person who is or becomes the
6 owner of all or any portion of the Land (hereinafter defined) prior to execution and delivery of
7 such Agreement, in order to acquire the development rights in not more than 156 acres, more or
8 less, of agricultural land located at Fawn Grove Road, Pylesville, Maryland 21132, containing 14
9 development rights, within the County for an aggregate maximum purchase price of \$766,746.24,
10 plus interest thereon, the actual amount of the purchase price to be equal to the lesser of such
11 maximum amount or \$4,915.04 times the number of acres in such land, upon the terms and
12 conditions hereinafter set forth, but equal to the lesser of the maximum easement per acre value
13 or the maximum development right value but not in excess of the maximum per acre cap, the
14 actual purchase price to be determined in accordance with the Agricultural Land Preservation
15 Act.

16 NOW, THEREFORE:

17 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD
18 COUNTY, MARYLAND, That

19 (a) Harford County, Maryland (the "County") shall enter into an Installment
20 Purchase Agreement (the "Installment Purchase Agreement") with BENJAMIN ROY LOWE
21 AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BENJAMIN ROY LOWE
22 REVOCABLE TRUST DATED 5/24/2012 AND BENJAMIN ROY LOWE AND BARBARA
23 WRIGHT LOWE AS TRUSTEES FOR THE BARBARA WRIGHT LOWE REVOCABLE
24 TRUST DATED 5/24/2012, or any person who is or becomes the owner of all or any portion of
25 the Land (hereinafter defined) prior to the execution and delivery of the Installment Purchase

Agreement (the "Seller") in order to acquire the development rights in approximately 156 acres of land, more or less, located at Fawn Grove Road, Pylesville, Maryland 21132, containing 14 development rights, within the County (the "Land"), for an aggregate purchase price not in excess of \$766,746.24 (the "Purchase Price"), plus interest thereon as hereinafter provided; provided that the actual amount of the Purchase Price shall be equal to the lesser of such maximum amount or \$4,915.04 multiplied by the number of acres in the Land, but equal to the lesser of the maximum easement per acre value or the maximum development right value but not in excess of the maximum per acre cap as determined pursuant to the Agricultural Land Preservation Act. The aggregate Purchase Price shall be set forth in an Agreement of Sale between the County and the Seller, and the deferred portion of the Purchase Price not paid at closing, shall be set forth in the Installment Purchase Agreement hereinabove described;

(b) The Installment Purchase Agreement shall be in substantially the form attached hereto as Exhibit C and made a part hereof, and in such form the Installment Purchase Agreement is hereby approved as to form and content. The Installment Purchase Agreement shall be dated as of the date of its execution and delivery by the County and the Seller (the "Closing Date");

(c) A portion of the Purchase Price, in the amount determined as hereinafter provided, shall be paid in cash on the Closing Date. The balance of the Purchase Price shall be paid to the Seller in each year thereafter to and including a date not more than thirty (30) years after the Closing Date. The dates on which each such installment is payable shall be determined by the County Executive and the Treasurer and shall be inserted in the form of the Installment Purchase Agreement attached hereto as Exhibit C;

(d) Interest on the unpaid balance of the Purchase Price shall accrue from the Closing Date and shall be payable at least annually in each year, commencing on the first of such dates to follow the Closing Date and continuing to and including a date not more than thirty (30)

years after the Closing Date at an interest rate equal to the yield on U.S. Treasury STRIPS maturing on the date next preceding the final maturity date in the Installment Purchase Agreement determined as of the business day preceding the Closing Date and rounded to the next highest 0.05% per annum. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months;

(e) The County's obligation to make payments of the Purchase Price under the Installment Purchase Agreement and to pay interest thereon is and shall be a general obligation of the County and is and shall be made upon its full faith and credit.

SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND,

That it is hereby found and determined that:

(a) The acquisition of the development rights in the Land as set forth in Section 1 of this Bill and in the form of the Installment Purchase Agreement attached hereto as Exhibit C is in the best interests of the County;

(b) The Installment Purchase Agreement is a contract providing for the payment of funds at a time beyond the fiscal year in which it is made and requires the payment of funds from appropriations of later fiscal years;

(c) Funds for the payment of the Purchase Price under the Installment Purchase Agreement are included in the Budget Ordinance, As Amended;

(d) The County shall acquire the development rights in the Land in perpetuity;

(e) The Purchase Price is within the legal limitation on the indebtedness of the County as set forth in Article 25A, § 5(P) of the Annotated Code of Maryland;

(f) The cost of acquiring the development rights in the Land is equal to the Purchase Price;

1 (g) The only practical way to acquire the development rights in the Land is by
2 private negotiated agreement between the County and the Seller.

3 SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
4 HARFORD COUNTY, MARYLAND, That the Installment Purchase Agreement shall be signed
5 by the County Executive of the County (the "County Executive") by his manual signature, and
6 the Installment Purchase Agreement shall bear the corporate seal of the County, attested by the
7 manual signature of the Director of Administration of the County (the "Director of
8 Administration"). In the event that any officer whose signature shall appear on the Installment
9 Purchase Agreement shall cease to be such officer before the delivery of the Installment Purchase
10 Agreement, such signature shall nevertheless be valid and sufficient for all purposes, the same as
11 if such officer had remained in office until delivery.

12 SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
13 HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are hereby
14 authorized, prior to execution and delivery of the Installment Purchase Agreement, to make such
15 changes or modifications in the form of the Installment Purchase Agreement attached hereto as
16 Exhibit C as may be required or deemed appropriate by them in order to accomplish the purpose
17 of the transactions (including, but not limited to, determining the portion of the Purchase Price to
18 be paid in cash on the Closing Date and establishment of interest and principal payment dates in
19 each year that the Installment Purchase Agreement is outstanding) authorized by this Bill;
20 provided that such changes shall be within the scope of the transactions authorized by this Bill
21 and the execution of the Installment Purchase Agreement by the County Executive shall be
22 conclusive evidence of the approval by the County Executive of all changes or modifications in
23 the form of the Installment Purchase Agreement and shall thereupon become binding upon the
24 County in accordance with its terms, as authorized by Section 524 of the Charter and the
25 Authorizing Act (collectively, the "Enabling Legislation"), and as provided for in this Bill.

1 SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
2 HARFORD COUNTY, MARYLAND, That the County Executive, the Director of
3 Administration, the Treasurer of the County and other officials of the County are hereby
4 authorized and empowered to do all such acts and things and to execute, acknowledge, seal and
5 deliver such documents (including a Tax Certificate and Compliance Agreement) and certificates
6 as the County Executive may determine to be necessary to carry out and comply with the
7 provisions of this Bill subject to the limitations set forth in the Enabling Legislation and any
8 limitations set forth in this Bill.

9 SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
10 HARFORD COUNTY, MARYLAND, That the Treasurer of the County is hereby designated
11 and appointed as registrar and paying agent for the Installment Purchase Agreement (the
12 "Registrar"). The Registrar shall maintain, or cause to be maintained, books of the County for
13 the registration and transfer of ownership of the Installment Purchase Agreement. In addition,
14 the County may, from time to time, designate and appoint the Department of the Treasury of the
15 County, any officer or employee of the County or one or more banks, trust companies,
16 corporations or other financial institutions to act as a substitute or alternate registrar or paying
17 agent for the Installment Purchase Agreement, and any such substitute or alternate shall be
18 deemed to be the Registrar or an alternate Registrar for all purposes specified in the resolution
19 appointing such substitute or alternate. Any such appointment shall be made by the County
20 Council by resolution and the exercise of such power of appointment, no matter how often, shall
21 not be an exhaustion thereof.


22 SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
23 HARFORD COUNTY, MARYLAND, That for the purpose of paying the installments of the
24 Purchase Price when due and payable and the interest on the unpaid portion of the Purchase Price
25 when due and payable, there is hereby levied, and there shall hereafter be levied in each fiscal

year that any portion of the Purchase Price payable under the Installment Purchase Agreement remains outstanding, *ad valorem* taxes on real and tangible personal property and intangible property subject to taxation by the County, without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within limitations prescribed by law, in an amount sufficient, together with the portion of the transfer tax imposed on transfers of real property in Harford County which is dedicated to agricultural land preservation and other available funds, to pay any installment of the Purchase Price under the Installment Purchase Agreement maturing during the succeeding year and to pay the annual interest on the outstanding balance of the Purchase Price until all of the Purchase Price under the Installment Purchase Agreement and such interest have been paid in full; and the full faith and credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual payment of the Purchase Price under the Installment Purchase Agreement and the interest on the unpaid balance of the Purchase Price as and when the same respectively become due and payable.

SECTION 8. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That this Bill shall take effect sixty (60) calendar days after it becomes law.

EFFECTIVE: January 28, 2013

The Council Administrator of the Council does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.



Council Administrator

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EXHIBIT A

Application

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

MARY F. CHANCE
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

Benjamin L. Lowe
4909 Fawn Grove Road
Pylesville MD 21132

FORM OF COMMITMENT LETTER

RE: Placement of a Harford County Land Preservation Easement on approximately 135 acres of land.

Dear Mr. Lowe:

We are pleased to extend an offer to purchase the development rights and place a County Land Preservation Easement on your property of approximately 135 acres, subject to verification before settlement by survey submitted to Harford County, and located at 4909 Fawn Grove Road Pylesville, MD 21132. In accordance with your application, this offer is in the form of a 20 year Installment Purchase Agreement (IPA).

This agreement is subject to the following terms and conditions:

1. Purchase Price: Harford County (County) offers to purchase the Development rights from the Seller for a purchase price of \$4,915.04 dollars per surveyed acre based on 135 acres and the purchase/surrender of 14 development right for an approximate total of Six Hundred and Sixty Three Thousand, Five Hundred and Thirty Dollars and Forty Cents(\$663,530.40) pursuant to the enabling legislation or other exclusion acreage required by the County. Valuations are based on current acreages and development rights associated with those acreages. If surveys reveal more or less acreage and/or density, valuations will be adjusted accordingly (current county caps are \$6,000 per acre and \$60,000 per development right).

~ Preserving Harford's past; promoting Harford's future ~
(410) 638-3103

MY DIRECT PHONE NUMBER IS

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov
THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

2. Documentation: All instruments and documents required shall be subject to approval as to form and substance by the County, the County's attorney and Royston, Mueller, McLean & Reid, LLP, Bond Counsel (Bond Counsel). Bond Counsel shall prepare all documents evidencing the Deed of Easement. In addition to those items specifically set forth in this letter, the Seller shall furnish to the County, prior to the Settlement Date, any other documents or materials as the County may require.
3. Conditions Precedent to Settlement:
 - (a) Not less than fourteen (14) days prior to the Settlement Date, the Seller shall furnish to the County, a Subordination Agreement in recordable form from each Mortgagee and other lien holder having a lien on all or any portion of the land which Subordination Agreement shall be satisfactory in all respects to the County subordinating such person's interest in the Land to the rights of the County under the Deed of Easement. The County will develop the Subordination Agreement(s) if needed and forward to mortgage holder(s).
 - (b) The Seller shall provide an updated survey of the Land to the County at the expense of the Seller within twenty one (21) days prior to the Settlement Date. The survey shall be certified to the Title Company and or the Seller, and County, and shall show dimensions and locations of all improvements, easements, rights-of-way, adjoining sites, absence of any encroachment and such other details as the County may require.
4. Title Insurance: The County shall receive within fourteen (14) days prior to the Settlement Date, a title insurance binder with a commitment to issue a title insurance policy in the amount of the Purchase Price, insuring the ownership of the Development Rights by the County, subject only to those exceptions to title as are approved by the County and its Counsel, and with affirmative insurance on such matters as the County may require.
5. Expenses: The County shall pay all costs relating to the recording of the Deed of Easement, all title examinations charges, the premium for the title insurance policy, and fees of Bond Counsel for a reasonable number of hours of time expended on consultation with legal or financial advisors of the Seller and the out-of-pocket expenses of Bond Counsel. The Seller shall pay the fees and expenses of its own counsel, accountants and the cost of a survey.
6. Termination by County: This commitment is being made in reliance upon information supplied by the Seller to the County in connection with the sale of the Development Rights. If the County, acting in good faith, should determine that any such information or supporting representation of a material

nature is false, inaccurate, incomplete or misleading, the County may rescind and cancel this commitment.

7. Brokerage: The County shall pay no fee or commission to any broker or agent in connection with the purchase of the Development Rights, and the Seller hereby agrees to indemnify and hold harmless the County against all claims for brokerage fees and commissions.
8. Receipt of Opinion of Bond Counsel: It is a condition precedent to the settlement of the transaction contemplated hereby that the County and the Seller receive an opinion from Bond Counsel, dated on the Settlement Date, to the effect that under existing laws, regulations, rulings and decisions, interest paid under the Installment Purchase Agreement is not includible in the gross income of the Seller (or any holder of the Installment Purchase Agreement) for federal income tax purpose, which opinion may assume continuous compliance with certain covenants in the Tax Certificate and Compliance Agreement to be executed and delivered by the County on the date of delivery of the Installment Purchase Agreement and may be otherwise limited in accordance with its terms.
9. Acknowledgment of Seller with Regard to Tax Consequences of Transaction: The Seller acknowledges that the Seller has made an independent investigation and has consulted with attorneys, accountants and others selected by the Seller with respect to all tax considerations related to the transaction contemplated hereby (other than the matter described in Section 8 hereof), and the Seller certifies that the Seller has not looked to or relied upon the County or any of its officials, agents or employees, or to Bond Counsel, with respect to any of such matters.
10. Assignment Prohibited: This commitment may not be assigned or in any way transferred by the Seller without prior written approval of the County.
11. Entire Agreement: No statements, agreements or representation, oral or written, which may have been made to the Seller or to any employee or agent of the Seller, either by the County or by any employee, agent or broker acting on the Seller's behalf, with respect to the purchase of the Development Rights, shall be of any force or effect, except to the extent stated in this commitment, and all prior agreements and representations with respect to such purchase are merged herein. This commitment may not be changed except by written agreement signed by the Seller and the County.
12. Settlement Date; Survival: This transaction may be closed sixty (60) business days after Council action; provided all conditions precedent to closing have been met. This transaction must be fully settled within one hundred and twenty (120) business days from Council action, time being of the essence, or legislation approval will expire, however, a sixty (60) day extension can be requested for hardship cases. The terms of this commitment shall supersede in full, any prior commitment issued by the County in connection with the transaction contemplated hereby; and this commitment shall not survive settlement.

We are pleased to make this offer to you. Please indicate your acceptance of this commitment by signing and returning to us the executed original of this letter.

THE FOREGOING TERMS AND CONDITIONS ARE HEREBY AGREED
TO AND ACCEPTED THIS 6th day of August, 20 12.

Witness:

Joseph Cuculis
8/6/12

SELLER:

Benjamin R. Lowe

SELLER:

Barbara M. Lowe

SELLER:

SELLER:

THIS FORM MUST BE DATED, SIGNED AND RETURNED BY
August 15th, 2012 to:

Harford County Department of Planning and Zoning
Attn: William D. Amoss, Chief Agricultural and Historic
Preservation
220 South Main Street
Bel Air, MD 21014

For additional info please feel free to call me at 410-638-3235 to
schedule an appointment to review this offer.

have
monitors
135

**HARFORD COUNTY, MARYLAND
DEPARTMENT OF PLANNING & ZONING**

Harford County Administrative Offices Building
220 South Main Street
Bel Air, Maryland 21014
410.638.3103

Harford County Agricultural Land Preservation Act Application

1. If any item is inapplicable, please mark "N/A".
2. If any item includes a choice indicated by a box, please check the appropriate box and include or attach any other information required.
3. Each item should be completed as fully as possible by all applicants, unless otherwise indicated. If you are uncertain as to whether particular information is applicable to an item, please still include such information.
4. Please feel free to expand your answers by attaching additional sheets if necessary.
5. This is an application to sell a development rights easement to Harford County, Maryland pursuant to the Harford County Agricultural Land Preservation Act [Bill No. 93-2 as passed by the Harford County Council on April 6, 1993 (the "Act")]. After sale of the development rights easement, the only use of the land permitted under the Act is agricultural.
6. This application is subject to review by the Harford County Agricultural Advisory Board, and the land will be evaluated in accordance with the Harford County Easement Priority Ranking System.
7. This application is subject to the provisions of the Act. Applicant acknowledges receipt of the following:
 - a. Summary of the Act.
 - b. Sample form of deed of easement.
 - c. Sample form of installment purchase agreement.
 - d. Sample form of option of bond counsel.

I. APPLICANT (i.e., the owner of the land). Indicate the portion owned by each owner.

A. Correct legal name: Benjamin Roy Lowe

B. Address (if mailing address is a post office box, please give a street address as well:

4909 Fawn Grove Rd
Pylesville MD 21132

C. Telephone No. 410452-8653 Fax No. _____

D. Social Security Number or Tax Identification Number for each owner.

[REDACTED]

E. Type of legal entity:

☒ individual

☐ corporation incorporated in the State of _____

☐ general partnership created in the State of _____

☐ limited partnership created in the State of _____

☐ limited liability company created in the State of _____

F. Description of Applicant's business and percentage of income attributed to agricultural production: FARMER DAIRY

G. Contact person at Applicant's organization:

1. Name: SKIME

2. Title: _____

3. Telephone: _____

H. Legal counsel representing Applicant in proposed transaction:

1. Name: _____

2. Address: _____

3. Telephone No. _____ Fax No. _____

I. Surveyor representing applicant

1. Name: Highland Survey Co.

2. Address: _____

3. Telephone No. _____ Fax No. _____

J. Information concerning ownership (attach copy of deed(s) for all parcels).

Please list below all information for each parcel contained in this easement purchase.

1. Date of acquisition; recording reference; Harford County Tax map and parcel number; acres; address; sale of land, development rights, family conveyances or easement restriction applied to each parcel.

3-8-2012
MAP 3/9 P.1 750 04-04 2522
MAP 9 P.10 153.84A 04-04 2514
04-04 2506

- K. Mortgagees or Deeds of Trust or other encumbrances (including leases).
Lien holders will be required to subordinate their mortgage or deed of trust to the easement of the County.

N/A

- L. Describe all uses currently made of the land and by whom:
Agricultural

FARMING ALL ACRES

Non-Agricultural

N/A

M. Zoning Classifications (if known).

175
2

N. Identify all children of owner(s).

<u>Name</u>	<u>Address</u>
<u>17040</u>	

O. Identify all living mothers, fathers, brothers or sisters of owners of this property willing to participate in family conveyance lot transactions.

<u>Name</u>	<u>Address</u>
<u>none</u>	

P. Identify all residences and buildings on the land.

Pole Barn 50X120, 50X80
75X75, Daler 36X120
2 Story Farm House 32X40 Shop
24X36 shed w/rel L~~1211~~ to shed
EAH

Q. Applicant's accountant.

Name: _____

Address: _____

Telephone No.: _____

R. Identify all soil and/or water conservation plans in effect concerning the land and if all practices are applied (forward copy of SCS plan).

See NRCs 216

S. Farm land breakdown

Cropland acres 140

Pasture acres 25

Woodland acres 41

Homestead acres 4

Other _____

T. Innovative farming practices on farm and type and production.

growing crop and rotation

U. Has the Applicant, or any principal, officer, or principal stockholder:

1. Ever been convicted of a criminal offense other than a traffic violation?

☐ Yes ☒ No

If yes, please explain: _____

2. Ever been involved in bankruptcy or insolvency proceedings?

☐ Yes ☒ No

If yes, please explain: _____

3. Is there any litigation pending against the Applicant, principal, officer or principal shareholder?

☐ Yes ☒ No

If yes, please explain: _____

V. Other:

Are there any other facts or circumstances of a material nature (e.g., conflicts of interest) relating to any of the parties to the proposed transaction, the proposed facility, or its uses, which have not been clearly described in this application or which deserves further explanation?

☐ Yes ☒ No

X. Please indicate whether you will take ~~Installment Purchase option or lump sum payment.~~

II. EXECUTION

It is understood that the above information is submitted in good faith, based on present expectations of the Applicant, to aid the Agricultural Advisory Board of Harford County, Maryland in its consideration of this application for the sale of a development rights easement to Harford County, Maryland.

It is further understood that I/we, as Applicant, under this program may be required to attend a session of the County Council of Harford County, Maryland. The session will be a public hearing regarding this request. Meetings may also be necessary with the member of the County Council who represents the geographic area where the land is located.

The information in this application and supporting exhibits is true and complete to the best of my/our knowledge and is submitted for the purpose of the sale of development rights easement to Harford County, Maryland. I/We authorize Harford County to conduct whatever investigation it feels is necessary to properly evaluate and process this application. I/We understand that this application is subject to review of the Agricultural Advisory Board approval of the County Council of Harford County, Maryland, title search, survey, soil evaluation and other factors set forth in the Act.

Dated at Pikesville MD, on March 8, 20 12.
(City) (State)

Ben Jones

EXHIBIT B

Records of The Harford County Agricultural Advisory
Board evaluating and ranking applications pursuant
to the County's easement priority ranking system.

**Harford County Government
Agricultural Preservation Farm Ranking 2012**

Rank	Name	Address	Farm Type	Acres	DR	Score
1	Benjamin Lowe	Fawn Grove Road Pylesville MD 21132	Dairy	75	6	225.35
2	Benjamin Lowe	Fawn Grove Road Pylesville MD 21132	Dairy	135	14	215.48
3	Debra English	3038 Green Road White Hall MD 21161	Beef	70	3	212.04
4	Edward Roeder	Jolly Acres Road White Hall MD 21161	Grain	12	1	202.93
5	Michelle Barrow Widman	2417 Ady Road Forest Hill MD 21050	Grain	196	18	201.71
6	Edgar Kauffman	Baldwin Mill Road Baldwin MD	Hay	167	12	192.24
7	Anne Roeder Kern	Jolly Acres Road White Hall MD 21161	Grain	39	3	189.94
8	Todd Linkous	Fawn Grove Road Pylesville MD 21131	Grain	170	16	181.94
9	Reino Mikkonen	Baldwin Mill Road Forest Hill MD 21050	Equine	66	8	181.33
10	Thomas McKnight	1051 Priestford Road Street MD 21154	Grain	144	13	180.05
11	Barbara Warfield Ehlers	Rock Spring Road Forest Hill MD 21050	Grain	57	8	178.76
12	Virginia Scarlett	4216 Harford Creamery Road Whitehall MD 21161	Equine	42	1	173.68

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13	Lois and Steve Cooper (Farm 2)	4719 Flintville Road Whiteford MD 21160	Timber	199	17	173.44
14	Douglas Smith	Rt 136/E of Prospect Whiteford MD 21160	Pasture	40	2	168.04
15	Don Arnold	932 Holy Cross Road Street MD 21154	Hay	41	1	167.25
16	Albert Bierman	3440 Dorothy Avenue Joppa MD 21085	Grain	153	19	167.22
17	Greg Boegner	4420 Fox Chaser Lane White Hall MD 21161	Pasture	29	1	166.13
18	Jim & Janet Archer	Onion Road Pylesville MD 21132	Dairy	23	1	163.00
19	James C. West, Jr.	5101 West Road White Hall MD 21161	Grain / Forestry	170	16	161.52
20	Charles Ruzala	Buttermilk Road Pylesville MD 21132	Timber	28	10	159.95
21	David Button	2776 Sharon Road Forest Hill MD 21050	Grain	138	9	159.12
22	Herbert Turnbaugh	3527 Churchville Road Aberdeen MD 21001	Hay/Beef	79	6	158.27
23	Robert and Sara Livezey	1821 Ridge Road Whiteford MD 21160	Crops/Pasture	109	1	157.57
24	Gordon Knight	844 Carsins Run Road Aberdeen MD 21001	Grain	82	6	157.26
25	John & Lynn Katen	1915 Cosner Road Bel Air MD 21014	Crops / Pasture	69	2	154.85
26	Paul Lyon	3436 James Run Road Aberdeen MD 21101	Hay	34	3	147.25
27	John E. Dixon	Duncan Rd White Hall MD 21161	Pasture	21	1	144.94

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28	Robert Skillman	1804 Carsins Run Road Aberdeen MD 21101	Pasture/Hay	138	9	143.50
29	William Smith	2025 Connolly Road Fallston MD 21047	Equine	63	5	143.08
30	R.A. Smith et al	1528 Robinson Mill Road Street MD 21154	Hay	77	5	140.39
31	Clarence & Shirley Tittle	3850 Old Federal Hill Road Jarrettsville MD 21084	Grain/Hay	30	1	139.55
32	Michael Jeppi	4530 Flintville Road Whiteford MD 21160	Crops/Pasture	68	1	138.41
33	Izaak Walton League	5018 Onion Road Pylesville MD 21132	Timber	44	3	132.90
34	Irwin Scarff	Watervale Road Bel Air MD 21015	Pasture/Hay	50	4	129.13
35	Robert Markline	737 Mahan Road Aberdeen MD 21001	Grain/Pasture	29	1	126.06
36	William Cullum	E/S Earlton Road Havre de Grace MD 21078	Timber	26	1	114.26
37	Mike Euler	19 Harford Road Fallston MD 21047	Hay	60	5	113.59
38	Karl Mandi	1725 Tower Road Aberdeen MD 21101	Hay	34	1	92.82
39	Lower Susquehanna Conservancy	Old Forge Hill Road Street MD 21154	Timber	31	8	89.66
40	William & Shirley Tittle	3146 Old Federal Hill Road Forest Hill MD 21050	Grain/Hay	37	2	61.25
41	Billings Family	2039 Franklin Church Road Darlington MD 21034	Grain/Hay	38	2	60.90

EXHIBIT C

Form of Installment Purchase Agreement

INSTALLMENT PURCHASE AGREEMENT
(No. 2013-__)

THIS INSTALLMENT PURCHASE AGREEMENT is made as of the ____ day of _____, 201__ between BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BENJAMIN ROY LOWE REVOCABLE TRUST DATED 5/24/2012 AND BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE AS TRUSTEES FOR THE BARBARA WRIGHT LOWE REVOCABLE TRUST DATED 5/24/2012 (the "Seller") and HARFORD COUNTY, MARYLAND, a body politic and corporate of the State of Maryland (the "County").

RECITALS

A. Pursuant to and in accordance with Bill No. 07-05 now codified as Section 60-9 of the Harford County Code, as amended (the "Authorizing Act"), the County is authorized to preserve agricultural land in Harford County, Maryland by purchasing the development rights (as defined in the Authorizing Act) in agricultural lands located within the County.

B. The Seller is the owner in fee simple of certain agricultural real property located in Harford County, Maryland and more particularly described in Exhibit A to the Deed of Easement (hereinafter defined) (the "Land"). The Seller has offered to sell to the County the Seller's development rights in the Land and the County has accepted such offer, all upon and subject to the conditions set forth in this Agreement.

C. The County will receive the Seller's development rights in the Land for the purposes set forth in the Authorizing Act.

D. Except for the limited transferability described herein and in the Deed of Easement referred to herein, the transfer by the Seller of their development rights in the Land shall be in perpetuity.

E. The Seller owns _____ acres of Land, which are a part of the Land on which the County is authorized to acquire a Deed of Easement.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Seller and the County hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1. Definitions. As used in this Agreement, the following terms have the following meanings, unless the context clearly indicates a different meaning:

"Agricultural Use" means the rights of the Seller to continue to use the Land in perpetuity for agricultural purposes which directly contribute to the production, processing, or storage of agricultural products as defined by the United States Department of Agriculture, including agricultural uses permitted within the Harford County Zoning Code.

"Building Lot" means a lot of two acres or less included as part of the Land on the date hereof, which is hereafter either (a) released from the encumbrance of the Deed of Easement for the purpose of creating a building lot for a dwelling for such original Seller, or (b) conveyed or to be conveyed by the original Seller (but not any heir, personal representative, successor or assign) to one or more of such original Seller's children for the purpose of creating a building lot for a dwelling for such child or children, all in accordance with the Deed of Easement.

"Business Day" or "business day" means a day on which (a) banks located in each of the cities in which the principal office of the County or the Registrar is located are not required or authorized by law or executive order to close for business, and (b) The New York Stock Exchange is not closed.

"Closing Date" means _____, _____, the date of execution and delivery of this Agreement by the parties.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to the Code herein shall be deemed to include the United States Treasury Regulations in effect or proposed from time to time with respect thereto.

"County" means Harford County, Maryland, a body politic and corporate and a political subdivision created and existing under and by virtue of the Constitution and laws of the State, its successors and assigns.

"County Council" means the County Council of Harford County, Maryland.

"County Executive" means the County Executive of Harford County, Maryland.

"Deed of Easement" means the Deed of Easement dated _____, _____, from the Seller to the County, which shall convey the Development Rights (but not the Agricultural Use) to the County in perpetuity, substantially in form attached hereto as Exhibit A.

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1 "Development Rights" means the rights of the Seller in the Land to develop the Land for
2 any purpose except those which are related directly to or as an accessory use of the Land for
3 Agricultural Use. The term "Development Rights" shall not include the Agricultural Use.
4

5 "Enabling Legislation" means, collectively, (1) Section 524 of the Harford County
6 Charter and (2) Bill No. 07-05 enacted by County Council on April 10, 2007, approved by the
7 County Executive on April 11, 2007, effective June 10, 2007 as Section 60-9, of the Harford
8 County Code, as amended, and (3) Bill No. 11-07 enacted by the County Council on April 5,
9 2011, approved by the County Executive on April 12, 2011, and effective on June 13, 2011 and
10 (4) Bill No. 12-__ enacted by the County Council on _____, _____, approved by the
11 County Executive on _____, _____ and effective _____, _____.
12

13 "Interest Payment Date" means _____ in each year commencing _____,
14 201__.
15

16 "Land" means the tract of land located in Harford County, Maryland, containing
17 approximately _____ acres, and more particularly described in Exhibit A attached to the Deed
18 of Easement and made a part thereof and by reference a part hereof; provided, however, that if (a)
19 a Building Lot is released from the encumbrance of the Deed of Easement for the purpose of
20 creating a building lot for a dwelling for the original Seller, or (b) the original Seller conveys one
21 or more Building Lots to their children in accordance with the Deed of Easement, the Building
22 Lots so released or conveyed shall not thereafter be considered to be part of the Land.
23

24 "Permitted Encumbrances" means the encumbrances listed on Exhibit B attached hereto
25 and made a part hereof and any encumbrances on or with respect to the Land or any portion
26 thereof hereafter approved by the County.
27

28 "Person" or "person" means any natural person, firm, association, corporation, company,
29 trust, partnership, public body or other entity.
30

31 "Purchase Price" means _____ Dollars _____ (\$_____),
32 the purchase price to be paid by the County to the Registered Owner in accordance with this
33 Agreement.
34

35 "Registered Owner" means the registered owner of this Agreement as shown on the
36 registration books maintained by the Registrar.
37

38 "Registrar" means the Treasurer of the County, or any other person hereafter appointed by
39 the County to act as Registrar and paying agent for this Agreement.
40

41 "Seller" means _____, their respective heirs, personal
42 representatives, and assigns, and any other person who becomes the owner of the Land.
43

44 "State" means the State of Maryland.
45

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1 SECTION 1.2. Rules of Construction. The words "hereof", "herein", "hereunder",
2 "hereto", and other words of similar import refer to this Agreement in its entirety.

3
4 The terms "agree" and "agreements" contained herein are intended to include and mean
5 "covenant" and "covenants".

6
7 References to Articles, Sections, and other subdivisions of this Agreement are to the
8 designated Articles, Sections, and other subdivisions of this Agreement.

9
10 The headings of this Agreement are for convenience only and shall not define or limit the
11 provisions hereof.

12
13 All references made (a) in the neuter, masculine or feminine gender shall be deemed to
14 have been made in all such genders, and (b) in the singular or plural number shall be deemed to
15 have been made, respectively, in the plural or singular number as well.

16
17 **ARTICLE II**

18
19 **SALE AND PURCHASE OF DEVELOPMENT RIGHTS**

20
21 SECTION 2.1. Agreement to Sell and Purchase Development Rights. The Seller agrees
22 to sell the Development Rights to the County and the County agrees to purchase the
23 Development Rights from the Seller on the date hereof for a purchase price of \$_____ (the
24 "Purchase Price").

25
26 SECTION 2.2. Delivery of Deed of Easement. In order to evidence the sale of the
27 Development Rights to the County, the Seller shall execute and deliver to the County on the
28 Closing Date the Deed of Easement. The Deed of Easement shall be recorded among the Land
29 Records of Harford County, Maryland.

30
31 **ARTICLE III**

32
33 **PAYMENT OF PURCHASE PRICE**

34
35 SECTION 3.1. Payment of Purchase Price.

36
37 (a) The County shall pay a portion of the Purchase Price in the amount of
38 _____ Dollars (\$_____) to the Seller on the Closing Date and shall pay the
39 balance of the Purchase Price to the Registered Owner in installments on _____ and
40 on the same day of each year thereafter to and including _____ (each an
41 "Installment Payment Date"), in the amounts set forth in Schedule I attached hereto and made a
42 part hereof.

43
44 (b) Interest on the unpaid balance of the Purchase Price shall accrue from the
45 date hereof and shall be payable to the Registered Owner on _____ and annually

1 thereafter in each year to and including _____ at the rate of _____ % per annum.
2 Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.
3

4 (c) Both the installments of the Purchase Price and the interest on the unpaid
5 balance thereof are payable in lawful money of the United States of America, at the time of
6 payment.
7

8 (d) Payment of interest on the unpaid balance of the Purchase Price shall be
9 made by the County on each Interest Payment Date to the Registrar. Payments of the principal
10 installments of the Purchase Price shall be made on each Installment Payment Date to the
11 Registrar. The Registrar shall forward all such payments (other than the final installment of the
12 Purchase Price) to the person appearing on the books of the County maintained by the Registrar
13 as the Registered Owner, by check or draft mailed to the Registered Owner at the address of the
14 Registered Owner as it appears on such registration books or, if the Registered Owner is a trustee
15 who has issued certificates of participation in this Agreement, by wire transfer to such Registered
16 Owner to the bank account number on file with the Registrar on the tenth day before the
17 applicable Interest Payment Date or Installment Payment Date, or if such tenth day is not a
18 Business Day, the Business Day next preceding such day. The final installment of the Purchase
19 Price shall be paid by the Registrar to the Registered Owner upon presentation and surrender of
20 this Agreement at the office of the Registrar.
21

22 (e) The County's obligation to make payments of the Purchase Price hereunder
23 and to pay interest on the unpaid balance of the Purchase Price is a general obligation of the
24 County, and the full faith and credit and the taxing power of the County are irrevocably pledged
25 to the punctual payment of the Purchase Price and the interest on the unpaid balance of the
26 Purchase Price as and when the same respectively become due and payable.
27

28 **SECTION 3.2. Registration and Transfer of this Agreement.**
29

30 (a) Until the Purchase Price and all interest thereon have been paid in full, the
31 Registrar, on behalf of the County, shall maintain and keep at the offices of the Registrar,
32 registration books for the registration and transfer of this Agreement. The ownership of this
33 Agreement may not be transferred or assigned, except upon the written approval of the County.
34

35 (b) The original Seller is the original Registered Owner. This Agreement
36 shall be transferable only upon the written approval of the County and upon the books of the
37 County maintained for such purpose by the Registrar, at the written request of the Registered
38 Owner as then shown on such registration books or his attorney duly authorized in writing, upon
39 presentation and surrender thereof, together with a written instrument of transfer substantially in
40 the form attached hereto as Exhibit C, or as may otherwise be satisfactory to and approved by the
41 Registrar in writing, duly executed by the Registered Owner or his attorney duly authorized in
42 writing. Upon the surrender for transfer of this Agreement, the Registrar shall complete the
43 Schedule of Transferees attached hereto as Exhibit D with the name, address and tax
44 identification number of the transferee Registered Owner, the date of the transfer and the
45 outstanding principal balance of the Purchase Price as of the date of transfer; provided, however,
46 that if there is any conflict between the information set forth in Exhibit D hereto and the

1 registration books maintained by the Registrar, the information shown on such registration books
2 shall control.

3
4 The County and the Registrar may deem and treat the person in whose name this
5 Agreement is registered upon the books of the County maintained by the Registrar as the absolute
6 owner of this Agreement, whether any payments hereunder shall be overdue or not, for the
7 purpose of receiving payment of, or on account of, the Purchase Price and interest thereon and
8 for all other purposes, and all such payments so made to any such Registered Owner or upon his
9 order shall be valid and effectual to satisfy and discharge the liability upon this Agreement to the
10 extent of the sum or sums so paid, and neither the County nor the Registrar shall be affected by
11 any notice to the contrary.

12
13 For every registration of transfer of this Agreement, the County or the Registrar may
14 make a charge sufficient to reimburse themselves for any tax or other governmental charge
15 required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by
16 the person requesting such transfer as a condition precedent to the exercise of the privilege of
17 registering such transfer.

18
19 SECTION 3.3. Mutilated, Lost, Stolen or Destroyed Agreement. In the event that this
20 Agreement is mutilated, lost, stolen or destroyed, the County and the Registered Owner (as then
21 shown on the registration books maintained by the Registrar) shall execute a substitute for this
22 Agreement having the same terms as that of this Agreement mutilated, lost, stolen or destroyed;
23 provided that, in the case of any mutilated Agreement, such mutilated Agreement shall first be
24 surrendered to the Registrar, and, in the case of any lost, stolen or destroyed Agreement there
25 shall be first furnished to the County and the Registrar evidence of such loss, theft or destruction
26 satisfactory to the County and the Registrar, together with indemnity satisfactory to each of them
27 in their sole discretion. The County and the Registrar may charge the Registered Owner
28 requesting such new Agreement their expenses and reasonable fees, if any, in this connection. If
29 after the delivery of such substitute Agreement, a bona fide purchaser of the original Agreement
30 (in lieu of which such substitute Agreement was issued) presents for payment such original
31 Agreement, the County and the Registrar shall be entitled to recover such substitute Agreement
32 from the person to whom it was delivered or any other person who receives delivery thereof,
33 except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity
34 provided therefor or otherwise to the extent of any loss, damage, cost or expense incurred by the
35 County and the Registrar in connection therewith.

36
37 ARTICLE IV

38
39 REPRESENTATIONS AND WARRANTIES

40
41 SECTION 4.1. Representations and Warranties of the County. The County makes the
42 following representations and warranties:

43
44 (a) The County is a body politic and corporate and a political subdivision of
45 the State.

1 (b) The County has the necessary power and authority to acquire the
2 Development Rights, to enter into this Agreement, to perform and observe the covenants and
3 agreements on its part contained in this Agreement and to carry out and consummate all
4 transactions contemplated hereby. By proper action, the County has duly authorized the
5 execution and delivery of this Agreement.
6

7 (c) This Agreement has been duly and properly authorized, executed, sealed
8 and delivered by the County, constitutes the valid and legally binding obligation of the County,
9 and is enforceable against the County in accordance with its terms.
10

11 (d) There are no proceedings pending or, to the knowledge of the County,
12 threatened before any court or administrative agency which may affect the authority of the
13 County to enter into this Agreement.
14

15 SECTION 4.2. Representations and Warranties of the Original Seller. The original
16 Seller makes the following representations and warranties with respect to herself, but not with
17 respect to any transferee Seller:
18

19 (a) The Seller has full power and authority to execute and deliver this
20 Agreement and the Deed of Easement, and to incur and perform the obligations provided for
21 herein and therein. No consent or approval of any person or public authority or regulatory body
22 is required as a condition to the validity or enforceability of this Agreement or the Deed of
23 Easement, or, if required, the same has been duly obtained.
24

25 (b) This Agreement and the Deed of Easement have been duly and properly
26 executed by the Seller, constitute valid and legally binding obligations of the Seller, and are fully
27 enforceable against the Seller in accordance with their respective terms.
28

29 (c) There is no litigation or proceeding pending or, so far as the Seller knows,
30 threatened before any court or administrative agency which, in the opinion of the Seller, will
31 materially adversely affect the authority of the Seller to enter into, or the validity or enforceability
32 of, this Agreement or the Deed of Easement.
33

34 (d) There is (i) no provision of any existing mortgage, indenture, contract or
35 agreement binding on the Seller or affecting the Land, and (ii) to the knowledge of the Seller, no
36 provision of law or order of court binding upon the Seller or affecting the Land, which would
37 conflict with or in any way prevent the execution, delivery, or performance of the terms of this
38 Agreement or the Deed of Easement, or which would be in default or violated as a result of such
39 execution, delivery or performance, or for which adequate consents, waivers or, if necessary,
40 subordinations, have not been obtained.
41

42 (e) There exist no liens or security interests on or with respect to the Land
43 (other than Permitted Encumbrances), or such liens or security interests will be released or
44 subordinated to the Development Rights.
45

1 (f) The Seller is not a nonresident alien of the United States of America for
2 purposes of federal income taxation.

3
4 (g) The Employer Identification Numbers of the Sellers are
5 _____ and _____. The Seller shall, upon
6 request of the County, execute Treasurer Form W-9 and deliver the same to the County for filing.

7
8
9 The representations in subsections (f) and (g) above are made under penalties of perjury
10 and the information contained therein may be disclosed by the County to the Internal Revenue
11 Service. The Seller acknowledges that any false statement in such subsections could be punished
12 by fine, imprisonment or both.

13
14 **ARTICLE V**

15
16 **PROVISIONS RELATING TO EXCLUSION**
17 **OF INTEREST FROM INCOME FOR FEDERAL INCOME TAXATION**

18
19 **SECTION 5.1. Intent of County and Tax Covenant of County.** The County intends that
20 the interest payable under this Agreement shall not be includible in the gross income of the
21 Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code.
22 Accordingly, the County shall not knowingly take or permit to be taken any other action or
23 actions or omit or fail to take any action, which would cause this Agreement to be an "arbitrage
24 bond" within the meaning of Section 148 of the Code, or which would otherwise cause interest
25 payable under this Agreement to become includible in the gross income of any Registered Owner
26 for purposes of federal income taxation pursuant to Section 148 of the Code.

27
28 **SECTION 5.2. Acknowledgment of Seller with Regard to Tax Consequences of**
29 **Transaction.** The Seller has received an opinion from Royston, Mueller, McLean & Reid, LLP,
30 Bond Counsel, dated the date hereof, to the effect that under existing laws, regulations, rulings
31 and decisions, interest payable under this Agreement is not includible in the gross income of the
32 Seller for federal income tax purposes, which opinion assumes continuous compliance with
33 certain covenants in the Tax Certificate and Compliance Agreement to be executed and delivered
34 by the County on the date of delivery of this Agreement and is otherwise limited in accordance
35 with its terms. The Seller acknowledges that they have made their own independent
36 investigation and have consulted with attorneys, accountants and others selected by the Seller in
37 the Seller's sole discretion with respect to all other tax considerations related to the transaction
38 contemplated hereby (including, but not limited to, installment sales treatment under Section 453
39 of the Code, charitable contribution deductions under Section 170 of the Code, and federal estate
40 tax implications); and the Seller certifies that the Seller has not looked to or relied upon the
41 County or any of its officials, agents or employees, or to Bond Counsel, with respect to any of
42 such matters.
43

ARTICLE VI

THE REGISTRAR

SECTION 6.1. Appointment of Registrar. The Treasurer of the County, is hereby designated and appointed to act as Registrar for this Agreement.

SECTION 6.2. Change of Registrar and Appointment of Successor Registrar. The County shall have the right, subject to the terms of any agreement with the Registrar, to change the Registrar at any time by filing with the Registrar to be removed, and with the Registered Owner, an instrument in writing. Notwithstanding the foregoing, such removal shall not be effective until a successor Registrar has assumed the Registrar's duties hereunder.

SECTION 6.3. Qualifications of Successor Registrar. Any successor Registrar shall be either (a) the Treasurer of the County, (b) an officer or employee of the County, or (c) a bank, trust company or other financial institution duly organized under the laws of the United States or any state or territory thereof which is authorized by law and permitted under the laws of the State to perform all the duties imposed upon it as Registrar by this Agreement.

SECTION 6.4. Successor by Merger or Consolidation. If the Registrar is a bank, trust company or other financial institution, any institution or corporation into which the Registrar hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Registrar hereunder shall be a party or any institution or corporation succeeding to the corporate trust business (if any) of the Registrar, shall be the successor Registrar under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, anything in this Agreement to the contrary notwithstanding.

ARTICLE VII

MISCELLANEOUS

SECTION 7.1. Successors of County. In the event of the dissolution of the County, all the covenants, stipulations, promises and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, the Seller, any other Registered Owner and the Registrar, shall bind or inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County shall be transferred.

SECTION 7.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation, other than the County, the Seller, any other Registered Owner and the Registrar, any right, remedy or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County, the Seller, any other Registered Owner from time to time of this Agreement and the Registrar.

1 SECTION 7.3. Binding Effect. This Agreement shall be binding upon and inure to the
2 benefit of the parties hereto, their respective heirs, personal representatives, successors and
3 assigns, including, without limitation, all Registered Owners from time to time of this
4 Agreement.
5

6 SECTION 7.4. Severability. In case any one or more of the provisions of this Agreement
7 shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect
8 any other provisions of this Agreement and this Agreement shall be construed and enforced as if
9 such illegal or invalid provisions had not been contained herein or therein.
10

11 SECTION 7.5. Prior Agreements Canceled; No Merger. This Agreement shall
12 completely and fully supersede all other prior agreements, both written and oral, between the
13 County and the Seller relating to the acquisition of the Development Rights. Neither the County
14 nor the Seller shall hereafter have any rights under such prior agreements but shall look solely to
15 this Agreement and the Deed of Easement for definitions and determination of all of their
16 respective rights, liabilities and responsibilities relating to the Land, the Development Rights and
17 the payment for the Development Rights. In addition, this Agreement shall survive the execution
18 and recording of the Deed of Easement in all respects and shall not be merged therein.
19

20 SECTION 7.6. Amendments, Changes and Modifications. This Agreement may not be
21 amended, changed, modified, altered or terminated except by an agreement in writing between
22 the County and the then-Registered Owner. An executed counterpart of any such amendment
23 shall be attached to this Agreement and shall be binding upon such Registered Owner and all
24 successor Registered Owners.
25

26 SECTION 7.7. No Personal Liability of County Officials. No covenant or agreement
27 contained in this Agreement shall be deemed to be the covenant or agreement of any official,
28 officer, agent or employee of the County in his or her individual capacity, and neither the officers
29 or employees of the County nor any official executing this Agreement shall be liable personally
30 on this Agreement or be subject to any personal liability or accountability by reason of the
31 issuance thereof.
32

33 SECTION 7.8. Governing Law. The laws of the State shall govern the construction and
34 enforcement of this Agreement.
35

36 SECTION 7.9. Notices. Except as otherwise provided in this Agreement, all notices,
37 demands, requests, consents, approvals, certificates or other communications required under this
38 Agreement to be in writing shall be sufficiently given and shall be deemed to have been properly
39 given three Business Days after the same is mailed by certified mail, postage prepaid, return
40 receipt requested, addressed to the person to whom any such notice, demand, request, approval,
41 certificate or other communication is to be given, at the address for such person designated
42 below:
43

44 County: Harford County, Maryland
45 County Office Building
46 220 South Main Street

Bel Air, Maryland 21014
Attention: Treasurer

with a copy to: Robert S. McCord, Esquire
County Attorney
County Office Building
220 South Main Street
Bel Air, Maryland 21014

Seller: Benjamin Roy Lowe and Barbara Wright Lowe
Trustees for the Benjamin Roy Lowe
Revocable Trust dated 5/24/2012
4909 Fawn Grove Road
Pylesville, Maryland 21132

Benjamin Roy Lowe and Barbara Wright Lowe
Trustees for the Barbara Wright Lowe
Revocable Trust dated 5/24/2012
4909 Fawn Grove Road
Pylesville, Maryland 21132

Registrar: Kathryn L. Hewitt, CPA
Treasurer
County Office Building
220 South Main Street
Bel Air, Maryland 21014

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, demands, requests, consents, approvals, certificates or other communications shall be sent hereunder.

SECTION 7.10. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may, unless otherwise provided in this Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Agreement, and in the case of payment no interest shall accrue for the period after such nominal date.

WITNESS the signatures and seals of the parties hereto as of the date first above written.

HARFORD COUNTY, MARYLAND

[COUNTY'S SEAL]

By: _____
David R. Craig
County Executive

ATTEST:

Mary Chance
Director of Administration

WITNESS:

_____(SEAL)
BENJAMIN ROY LOWE

_____(SEAL)
BARBARA WRIGHT LOWE

TRUSTEES FOR THE BENJAMIN ROY
LOWE REVOCABLE TRUST DATED
5/24/2012

_____(SEAL)
BENJAMIN ROY LOWE

_____(SEAL)
BARBARA WRIGHT LOWE

TRUSTEES FOR THE BARBARA
WRIGHT LOWE REVOCABLE TRUST
DATED 5/24/2012

SELLER

SCHEDULE I

INSTALLMENTS OF
DEFERRED PORTION OF PURCHASE PRICE
(BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE
AS TRUSTEES FOR THE BENJAMIN ROY LOWE
REVOCABLE TRUST DATED 5/24/2012 AND
BENJAMIN ROY LOWE AND BARBARA WRIGHT LOWE
AS TRUSTEES FOR THE BARBARA WRIGHT LOWE
REVOCABLE TRUST DATED 5/24/2012)

Date of Payment

Amount Payable

Plus initial payment of purchase
price on _____

\$ _____

TOTAL

\$ _____

EXHIBIT A
TO INSTALLMENT
PURCHASE AGREEMENT

HARFORD COUNTY AGRICULTURAL LAND PRESERVATION
AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

DEED OF EASEMENT

THIS DEED OF EASEMENT made this _____ day of _____, _____, by and between _____, parties of the first part, Grantor, and HARFORD COUNTY, MARYLAND, party of the second part, Grantee.

Explanatory Statement

A. The County Council of Harford County, Maryland enacted Bill No. 07-05, as amended, which created a new Article II, Agricultural Land Preservation Program, to Chapter 60, Agriculture, of the Harford County Code, as amended, for the purpose of establishing the Harford County Agricultural Land Preservation Act (the "Act") to preserve productive agricultural land and woodland which provides for the continued production of food and fiber for the citizens of the County; and

B. By authority of the Act, the Grantee may purchase development rights and family conveyances from agricultural landowners by subjecting the property to be purchased to an agricultural preservation easement restricting these rights and conveyances in perpetuity in the manner more specifically provided in the Act; and

C. The Grantor is the fee simple owner of the hereafter described parcel(s) of land located in Harford County, Maryland and desires to sell and convey to the Grantee an agricultural preservation easement to restrict such land to agricultural use in accordance with the Act and as hereinafter set forth; and

D. Bill No. _____, enacted by the County Council of Harford County, Maryland on _____, approved by the County Executive on _____ and effective _____, authorizes Harford County, Maryland to purchase development rights and family conveyance in up to _____ acres of agricultural land from _____ or any other owner thereof.

E. The Grantor is a "Landowner" as defined in Section 60-10 of the Act.

F. The Grantor owns _____ acres.

NOW, THEREFORE, in consideration of the sum of _____ Dollars (\$_____) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to Harford County, Maryland, as Grantee, its successors and assigns, an agricultural preservation easement, in perpetuity, together

with and subject to the covenants, conditions, limitations and restrictions hereafter set forth so as to constitute an equitable servitude thereon, in, under and over the parcel(s) of land situate in the _____ Election District of Harford County, Maryland and being more particularly described in Exhibit A attached hereto.

AND, FURTHER, together with all transferable development rights in accordance with the provisions of Section 267-34(D)(4) of the Code of Harford County, Maryland, and all family conveyances in accordance with the provisions of Section 267-34(D)(3)(d) of the Code of Harford County, Maryland.

AND the Grantor covenants for themselves, and for their respective heirs, personal representatives and assigns, with the Grantee, its successors and assigns, to do and refrain from doing upon the above-described land all and any of the various acts hereafter set forth, it being the intention of the parties that said land shall be preserved solely for the agricultural use as defined in and in accordance with the provisions of the Act, and hereafter set forth are intended to limit the use of the above-described land and are deemed to be and shall be construed as covenants running with the land.

COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

Subject to the reservations hereinafter contained and except as otherwise provided herein, the Grantor, for themselves and their respective heirs, personal representatives and assigns, covenants and agrees with Grantee as follows:

A. The above-described land may not be developed or otherwise used for other than agricultural use (as defined in the Act).

B. The above-described land shall be maintained in agricultural use or properly managed so that it is available for continued agricultural use from the date of the recording of this instrument among the Land Records of Harford County.

C. At the time of establishment of the easement hereby granted, a soil and water conservation plan as prepared by the Soil Conservation District shall be implemented and maintained with respect to the above-described land.

D. To not allow any type of residential subdivision, other than that outlined in the easement as owner/child lots and to limit the utilization of the above-described land to Agricultural Uses as defined in the Agricultural Land Preservation and Purchase of Development Rights Program and including those uses contained in Section 267-43(F) of the Harford County Zoning Code, as amended.

E. The construction of new buildings or structures on the above-described land, other than farm buildings that did not exist at the time of the establishment of the within easement, is contingent upon the written application to and approval by the Department of Planning and Zoning, subject to review by and recommendation of the Agricultural Land Preservation Advisory Board.

F. Subject to the provisions of paragraphs G and H hereof:

1. The Grantor may at any time hereafter request a two (2) acre or less lot exclusion for the exclusive residential use of the Grantor. Such request (a) must be made by letter provided to the Department of Planning and Zoning verifying the Grantor's intention to live in a dwelling situate within any lot so excluded; (b) shall be subject to review and recommendation of the Agricultural Land Preservation Advisory Board; (c) the use and occupancy permit must be in the name of the owner/grantor; and (d) the owner's lot may not be sold or transferred for a period of five (5) years from the date of issuance of the use and occupancy permit except in the event of the death or legal incompetence of the owner or if the lot is part of bankruptcy proceedings; or with approval of the Department of Planning and Zoning, subject to review and recommendation of the Agricultural Land Preservation Advisory Board. Upon such request and recommendation of the Agricultural Land Preservation Advisory Board, Grantee shall execute and deliver to Grantor, his/her personal representatives, successors and assigns, an instrument in recordable form releasing such lot from the force and effect of this Deed of Easement and all covenants, conditions, limitations and restrictions herein set forth.

2. The Grantor may at any time hereafter request the right to construct, use and occupy a tenant home on the above-described land in accordance with the conditions established within Section 267-26(D) of the Harford County Zoning Code, as amended. Such request (a) must be made by letter provided to the Department of Planning and Zoning and (b) shall be subject to review and recommendation of the Agricultural Land Preservation Advisory Board. The tenant house shall not be subdivided off of the easement property.

3. The Grantor may at any time hereafter request in writing to the Department of Planning and Zoning a two (2) acre or less lot exclusion for the exclusive residential use of a child. Such request (a) must be from both Grantor and the child verifying the intention of the child to live in a dwelling situate within the lot so excluded; (b) shall be subject to the review and recommendation of the Agricultural Land Preservation Advisory Board; and (c) the building permit and the owner occupancy permit must be in the child's name. The child lot may not be sold or transferred for a period of five (5) years from the date of issuance of the use and occupancy permit except in the event of the death or the legal incompetence of the child or if the lot is part of bankruptcy proceedings; or with approval of the Department of Planning and Zoning, subject to review and recommendation of the Agricultural Land Preservation Advisory Board. Upon such request and recommendation of the Agricultural Land Preservation Advisory Board, Grantee shall execute and deliver to the child, his/her personal representatives, successors and assigns, an instrument in recordable form releasing such lot from the force and effect of this Deed of Easement and all covenants, conditions, limitations and restrictions herein set forth.

G. The exclusion of lots pursuant to the provisions of paragraph F above from the force and effect of this Deed of Easement and all covenants, conditions, limitations and restrictions herein set forth shall be subject to the following conditions:

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1. The total number of such lot exclusions may not exceed one (1) lot for each twenty-five (25) acres contained within the above-described land or four (4) lots per easement property, whichever is less; and

2. The maximum size of any lot so excluded may not exceed a maximum lot area of two (2) acres, including within such area all Harford County right-of-way requirements unless waived by the Director of Planning, with the review and recommendation of the Agricultural Land Preservation Advisory Board; and

3. The Grantor requesting lot exclusion shall be required to repay the County for each lot so excluded in an amount equal to the amount paid per acre by Harford County to the Grantor to acquire the above-described land plus all costs associated with the establishment of such lot.

H. The rights reserved to the Grantor under paragraph F to request a lot exclusion shall be deemed a personal covenant only, and one that is not intended to run with the land and shall belong only to, and may be exercised only, by the Grantor named in this instrument.

I. The Grantor and all future landowners of the said property reserves the right to use the above-described land for any agricultural use as defined in the Agricultural Land Preservation and Purchase of Development Rights Program and including those uses contained in Section 267-43(F) of the Harford County Zoning Code, as amended, and further reserves all other rights, privileged and incidents to the ownership of the fee simple estate in the above-described land not hereby conveyed or otherwise limited by the covenants, conditions, limitations and restrictions herein set forth.

J. This instrument shall not be deemed to provide for or permit public access to any privately owned land except for periodic inspections by the Grantee.

K. The easement conveyed to the Grantee for the parcels of land described in Exhibit A is based upon _____ acres.

The Grantor confirms that the easement is for the benefit of the Grantee and the easement transfers to the Grantee all the Grantor's property rights in the easement, and the Grantor has retained no interest whatsoever in the easement to the end that, in the event of casualty, condemnation or other judicial action or an unexpected change in condition which makes it impossible or impractical for the continued use of the land for agricultural purposes and there is a subsequent sale, exchange or involuntary conversion of the land subject to the easement, the Grantor shall receive only the fair market value of the fee interest, and the proportionate fair market value of the easement as it bears to the value of the land as a whole will not be diminished to reduce the distribution of proceeds to the Grantee on a sale, exchange or involuntary conversion. This provision shall be interpreted with and is intended to comply with Income Tax Regulation, Section 1.170A-(14)(g)(6).

The Grantor further covenants that the Grantor has not done or suffered to be done any

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act, matter or thing whatsoever, to encumber the property hereby conveyed; that Grantor will warrant specially the property interest hereby conveyed; and the Grantor will execute such further assurances of the same as may be required.

As used herein, the singular form of a word includes both the singular and plural, the plural form of a word includes both plural and singular, and reference the words of certain gender includes reference to all genders.

No determination by any court, governmental body or otherwise that any provision of this Deed of Easement is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

WITNESS THE HAND AND SEAL of the undersigned.

WITNESS:

_____(SEAL)

STATE OF MARYLAND, COUNTY OF HARFORD, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 20__, before me, the Subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) are subscribed to the within instrument, and they acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

I HEREBY CERTIFY that the foregoing Deed of Easement was prepared on behalf of and at the request of Harford County, Maryland by or under the supervision of a member of the Bar of the Court of Appeals of Maryland.

**EXHIBIT A
TO DEED OF EASEMENT**

Description of Land

**EXHIBIT B
TO INSTALLMENT
PURCHASE AGREEMENT**

PERMITTED ENCUMBRANCES

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company (all clauses, if any, which indicate any preference, limitation or discrimination based on race, color, religion or national origin are omitted from all building and use restrictions, covenants and conditions, if any, shown herein):

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for the value of record the estate or interest or mortgage thereon covered by this commitment.
2. Rights or claims of parties other than the insured in actual possession of any or all of the property.
3. Special assessments against the property which are not shown as existing liens by the public records.
4. Real estate taxes, other public charges (including, but not limited to, assessments by any county, municipality, Metropolitan District or Commission) and the balance of any such changes payable on an annual basis which are not yet due and payable.

**EXHIBIT C
TO INSTALLMENT
PURCHASE AGREEMENT**

ASSIGNMENT

FOR VALUE RECEIVED, _____ (the "Registered Owner"), subject to the approval of Harford County, Maryland, hereby sell[s], assign[s] and transfer[s] unto _____, without recourse, all of the Registered Owner's right, title and interest in and to the Installment Purchase Agreement to which this Assignment is attached; and the Registered Owner's hereby irrevocably directs the Registrar (as defined in such Agreement) to transfer such Agreement on the books kept for registration thereof. The Registered Owner hereby represents, warrants and certifies that there have been no amendments to such Agreement [except _____].

Date: _____

WITNESS OR ATTEST: _____

NOTICE: The signature on this Assignment must correspond with of the name of the Registered Owner as it appears on the registration books for the Installment Purchase Agreement referred to herein in every particular, without alteration or enlargement or any change whatever.

ADD NOTARY ACKNOWLEDGMENT

Transfer of the foregoing Installment Purchase Agreement, as indicated above is approved this ____ day of _____, 201__.

Harford County, Maryland

By: _____
David R. Craig
County Executive

The transfer of this Installment Purchase Agreement may be registered only by the Registered Owner under such Agreement in person or by its duly authorized officer or attorney upon approval by Harford County, Maryland upon presentation hereof to the Registrar, who shall make note thereof in the books kept for such purpose and in the registration blank below.

[illegible]